

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic LATERRIO C. MORGAN
United States Air Force**

ACM 35829

27 April 2005

Sentence adjudged 19 December 2003 by GCM convened at Barksdale Air Force Base, Louisiana. Military Judge: James L. Flanary (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 4 years, and forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Major Terry L. McElyea, and Major Sandra K. Whittington.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, Lieutenant Colonel William B. Smith, and Major James K. Floyd.

Before

ORR, MOODY, and CONNELLY
Appellate Military Judges

OPINION OF THE COURT

This opinion is subject to editorial correction before final release.

CONNELLY, Judge:

The appellant was found guilty, pursuant to pleas, of two specifications of attempted theft, one specification each of absence without leave (AWOL), theft, and wrongful appropriation, two specifications of forgery, and four specifications of identity fraud, in violation of Articles 80, 85, 121, 123, and 134, UCMJ, 10 U.S.C. §§ 880, 885, 921, 923, 934. A military judge sitting as a general court-martial sentenced the appellant to a dishonorable discharge, confinement for 4 years, and forfeiture of all pay and allowances. On appeal, the appellant alleges his sentence is inappropriately severe.

Sentence appropriateness should generally be judged by “individualized consideration” of the particular appellant “on the basis of the nature and seriousness of the offense and the character of the offender.” *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). In his brief, the appellant submits that the military judge’s assessment of the sentence was not proportional to the actual offenses.

The appellant developed a complex scheme to steal the identity of fellow airmen and open fraudulent credit accounts to acquire or attempt to acquire thousands of dollars in goods. Using another airman’s identity, he opened a fraudulent checking account and forged 27 checks used to obtain cash, goods, and services. He continued this misconduct even after learning he was under investigation. He ended his criminal conduct by wrongfully appropriating the automobile of an airman temporarily deployed to Iraq and going AWOL until he was apprehended 17 days later.

The appellant’s conduct significantly impaired his victims’ credit histories and credit worthiness. Some had difficulty renting apartments and obtaining credit. One victim was threatened with arrest for a debt the appellant had accrued in her name and she had to obtain a new social security number. At the time of trial, she was still attempting to have her medical and school records transferred to the new social security number. The deployed member who had his car wrongfully appropriated spent several weeks and \$600 in retrieving the vehicle.

The appellant undertook a concerted effort over a sustained period of time to defraud a number of military members and civilian businesses. His criminal activities were complex and required significant planning and diligence in their execution.

Unfortunately for the appellant, his prior military record only affirms the correctness of the sentence. The appellant had two prior nonjudicial punishment actions and a vacation of a suspended nonjudicial punishment action. A letter of reprimand, three counseling reports, and two poor performance reports round out his military record. The adjudged sentence was appropriate considering the seriousness of the criminal activity, its duration and complexity, the victim impact, and the character of the offender. *See Snelling*, 14 M.J. at 268.

The findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court